

By: Carona

S.B. No. 1388

A BILL TO BE ENTITLED

AN ACT

relating to identity recovery service contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 348.208, Finance Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A retail installment contract may include as a separate charge an amount for:

(1) motor vehicle property damage or bodily injury liability insurance;

(2) mechanical breakdown insurance;

(3) participation in a motor vehicle theft protection plan;

(4) insurance to reimburse the retail buyer for the amount computed by subtracting the proceeds of the buyer's basic collision policy on the motor vehicle from the amount owed on the vehicle if the vehicle has been rendered a total loss;

(5) a warranty or service contract relating to the motor vehicle;

(6) an identity recovery service contract [~~defined by Section 1306.003, Occupations Code~~]; or

(7) a debt cancellation agreement if the agreement is included as a term of a retail installment contract under Section 348.124.

1 (b-1) In this section, "identity recovery service contract"
2 means an agreement:

3 (1) to provide identity recovery, as defined by
4 Section 1304.003, Occupations Code;

5 (2) that is entered into for a separately stated
6 consideration and for a specified term; and

7 (3) that is financed through a retail installment
8 contract.

9 SECTION 2. Section 353.207, Finance Code, is amended by
10 amending Subsection (b) and adding Subsection (b-1) to read as
11 follows:

12 (b) A retail installment contract may include as a separate
13 charge an amount for:

14 (1) motor vehicle property damage or bodily injury
15 liability insurance;

16 (2) mechanical breakdown insurance;

17 (3) participation in a motor vehicle theft protection
18 plan;

19 (4) insurance to pay all or part of the amount computed
20 by subtracting the proceeds of the retail buyer's basic collision
21 policy on the commercial vehicle from the amount owed on the vehicle
22 in the event of a total loss or theft of the vehicle;

23 (5) a warranty or service contract relating to the
24 commercial vehicle;

25 (6) an identity recovery service contract [~~defined by~~
26 ~~Section 1306.003, Occupations Code~~]; or

27 (7) a debt cancellation agreement.

1 (b-1) In this section, "identity recovery service contract"
2 means an agreement:

3 (1) to provide identity recovery, as defined by
4 Section 1304.003, Occupations Code;

5 (2) that is entered into for a separately stated
6 consideration and for a specified term; and

7 (3) that is financed through a retail installment
8 contract.

9 SECTION 3. Sections 1304.003(a) and (b), Occupations Code,
10 are amended to read as follows:

11 (a) In this chapter:

12 (1) "Identity recovery" means a process, through a
13 limited power of attorney and the assistance of an identity
14 recovery expert, that returns the identity of an identity theft
15 victim to pre-identity theft event status.

16 (2) "Service [~~,"~~ "service] contract" means an
17 agreement:

18 (A) [~~(1)~~] that is entered into for a separately
19 stated consideration and for a specified term; and

20 (B) [~~(2)~~] under which a provider agrees to
21 repair, replace, or maintain a product, or provide indemnification
22 for the repair, replacement, or maintenance of a product, for
23 operational or structural failure or damage caused by a defect in
24 materials or workmanship or by normal wear.

25 (b) A service contract may also provide for:

26 (1) incidental payment or indemnity under limited
27 circumstances, including towing, rental, and emergency road

1 service;

2 (2) the repair or replacement of a product for damage
3 resulting from a power surge or for accidental damage incurred in
4 handling the product; or

5 (3) identity recovery, [~~as defined by Section~~
6 ~~1306.002,~~] if the service contract is financed under Chapter 348 or
7 353, Finance Code.

8 SECTION 4. Section 2306.003(c), Occupations Code, is
9 amended to read as follows:

10 (c) A vehicle protection product may also include identity
11 recovery, as defined by Section 1304.003 [~~1306.002~~], if the vehicle
12 protection product is financed under Chapter 348 or 353, Finance
13 Code.

14 SECTION 5. Chapter 1306, Occupations Code, is repealed.

15 SECTION 6. (a) The changes in law made by this Act apply
16 only to an identity recovery service contract entered into or
17 renewed on or after the effective date of this Act. An identity
18 recovery service contract entered into or renewed before the
19 effective date of this Act is governed by the law in effect
20 immediately before the effective date of this Act, and that law is
21 continued in effect for that purpose.

22 (b) The repeal of Chapter 1306, Occupations Code, by this
23 Act does not apply to a violation of that chapter that occurs before
24 the effective date of the repeal. A violation that occurs before
25 the effective date of the repeal is governed by the law as it
26 existed on the date the violation occurred, and the former law is
27 continued in effect for that purpose. For purposes of this

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1 subsection, a violation occurred before the effective date of the
2 repeal if any element of the violation occurred before that date.

3 SECTION 7. This Act takes effect September 1, 2013.